

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Santa Clara for an Order authorizing construction of a new at-grade crossing (CPUC No. 082B-6.04-D) of tracks of the Valley Transportation Authority (VTA) Light Rail at Tasman Drive in the City of Santa Clara, Santa Clara County.

Application 13-08-006
(Filed August 1, 2013)

**DECISION AUTHORIZING THE CITY OF SANTA CLARA
TO CONSTRUCT A NEW AT-GRADE PEDESTRIAN
CROSSING OVER THE SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY TRACKS
ON TASMAN DRIVE IN THE CITY OF SANTA
CLARA, COUNTY OF SANTA CLARA**

Summary

This decision grants the City of Santa Clara authorization to construct a new at-grade pedestrian crossing over the tracks of the Santa Clara Valley Transportation Authority on Tasman Drive in the City of Santa Clara, County of Santa Clara. The new at-grade pedestrian crossing will be identified as CPUC Crossing No. 082B-6.04-D, SCL-1635.

Discussion

The City of Santa Clara (City) proposes a new at-grade pedestrian crossing over the Santa Clara Valley Transportation Authority (VTA) tracks in the median of Tasman Drive to provide access to the new 49ers Stadium during large events. The VTA tracks are located in the center median of Tasman Drive at the project

location. The pedestrian crossing will be located mid-block on Tasman Drive, between Convention Center Circle and Centennial Boulevard0/Marie P. DeBartolo Way.

The closest railroad crossings are located about 0.09 miles to the east and 0.22 miles to the west of the proposed 49ers Stadium pedestrian at-grade crossing. The crossing to the east is the Tasman Drive and Centennial Boulevard/Marie P. DeBartolo Way at-grade highway-rail crossing and is identified as California Public Utilities Commission (CPUC or Commission) Crossing No. 082B-5.94, SCL-1397. The crossing to the west is the Tasman Drive and Convention Center at-grade highway-rail crossing and is identified as CPUC Crossing No. 082B-6.27, SCL-1398. A vicinity map of the project is attached to the application.

The at-grade pedestrian crossing will be approximately 30 feet in width and will only be open during large stadium events where attendance will be greater than 20,000. The City will be implementing its Transportation Management and Operations Plan by closing Tasman Drive to vehicular traffic during such events to allow pedestrians ingress and egress between the stadium and both parking lots and the VTA Great America station.

In addition, the San Francisco 49ers Stadium Authority submitted an Events Management Plan to the California Public Utilities Commission's Rail Crossings Engineering Section on April 10, 2014 documenting additional crossing design and operation details which will be implemented when the crossing is open. Temporary Americans with Disabilities Act ramps with detectable warning will be placed on both crossing approaches during the large events, along with fencing to control and channelize pedestrians to the crossing. Retroreflective yellow ropes will be extended on both sides of the crossing

perpendicular to the tracks to provide visual notification to trolleys that the crossing is occupied. Two sets of pedestrian signal heads will be installed in-between the tracks facing both approaches. The pedestrian signal heads will be interconnected with the VTA trolley signals. The pedestrian signal system indicates a lunar “walk” symbol until the VTA signal system detects an approaching trolley. Once a VTA trolley is detected, the pedestrian signal head will change to the clearance interval with countdown timer. In addition, pedestrians will be controlled by on-site VTA, stadium security, and Santa Clara Police Department (SCPD) personnel. A minimum of two VTA and one SCPD personnel will control pedestrian access to the crossing on each approach. Additional stadium staff will be located on the approaches to control pedestrians. The monitoring personnel will prevent pedestrians from entering the crossing when VTA trolleys approach using a retractable belt stanchion system located at the top of the approach ramps. The VTA personnel will be properly trained in the functioning of this specific crossing system. Additional SCPD officers will be present on both approaches should the monitoring personnel require assistance with compliance.

VTA staff located at the crossing will be in radio contact with VTA staff at the Great America and Lick Mill VTA stations. When a trolley enters either station, VTA staff at the crossing will be notified and will direct the event staff to close the crossing to pedestrians and clear the crossing. When the crossing is clear, the retroreflective yellow rope on either side of the crossing will be removed, providing additional visual notification to the trolley operators that the crossing has been cleared. The trolleys will also hold prior to the pedestrian crossing until they receive verification from on-site staff via radio communication that the crossing is clear.

To prevent trespassing across the tracks and to channelize stadium patrons to designated crossing locations, the City will install permanent fencing along Tasman Drive on both sides of the VTA tracks, between Centennial Boulevard /Marie P. DeBartolo Way and Convention Center Circle, as a long-term solution. However, space constraints at the San Tomas Aquino Creek Bridge with the existing Tasman Drive roadway configuration preclude the installation of permanent fencing near the creek at this time. The City will install permanent fencing along Tasman Drive except the vicinity near the San Tomas Aquino Creek Bridge. During large events, temporary fencing will be installed along Tasman Drive on both sides of the track at the San Tomas Aquino Creek Bridge to prevent trespassing. The use of temporary fencing to secure the VTA right-of-way at the San Tomas Aquino Creek Bridge will be for a limited time period until the permanent fencing solution can be constructed.

The crossing will be closed during times when no events are scheduled and the pedestrian signal heads will be inactive. The ramps to the approaches will be removed. A sliding gate, constructed of the same material and height as the permanent fencing, will be closed and locked at each crossing approach, preventing pedestrian access.

VTA typically operates approximately 114 passenger trains per day with a maximum speed of 35 miles per hour on this segment of track. When the crossing is open for large events, VTA trolleys will operate using “Operate on Sight” speed, which requires trolley operators to operate at a speed in which they can stop the trolley within a distance half their range of vision to an obstruction.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000, et seq.) applies to discretionary projects to

be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the City is the lead agency for this project because it is constructing the project, and the project is subject to its review and approval, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.³ Also, as a responsible agency, the

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

Commission must make findings regarding each significant effect of the project; such findings shall include relevant mitigation measures.⁴

In February 2009, the City issued a Notice of Preparation for the 49ers Stadium Project. In July 2009, the City circulated the Draft Environmental Impact Report (DEIR) titled *49ers Santa Clara Stadium Project*. In November 2009, the City issued the Final Environmental Impact Report (FEIR). In August 2010, the City released an Addendum to the FEIR. The City released the Notice of Determination (NOD) in November 2010 determining that the project has significant effects on the environment and, requires mitigation measures. The City also adopted a Statement of Overriding Conditions.

The environmental findings of the DEIR, FEIR, and Addendum indicate that the stadium project as a whole will have significant effects on the environment. The Addendum specifically addresses impacts of the proposed at-grade pedestrian crossing, which were not discussed in the DEIR or FEIR. While the larger project has significant unavoidable impacts, the City has found that the actions within the Commission's jurisdiction, i.e., the pedestrian crossing, would not result in any new significant impacts or in any increase in the severity of previously identified impacts from the overall project.

The Addendum details alterations to the project including the addition of a new at-grade pedestrian crossing and related mitigation measures in response to

⁴ CEQA Guidelines, Section 15096(h)

stakeholder comments to the DEIR, including from the Commission's Rail Crossing Engineering Section (RCES) staff. Mitigation measures include installing permanent fencing along the VTA light rail track on Tasman Drive, opening the pedestrian crossing only during large stadium events, implementing a Transportation Management and Operations Plan, and coordinating with VTA and RCES staff on the crossing design. Regarding transportation and circulation impacts, the Addendum determined the "proposed project modifications would not result in any new significant impacts or in any increase in severity of previously identified impacts due to changes in the proposed project." The Addendum made this same finding with regard to other significant impacts from the overall stadium project. For instance, the Addendum found that the proposed pedestrian crossing would "not result in any new impacts to air quality or impacts of greater severity than those previously identified."

The Commission finds the proposed mitigation measures feasible and reasonable. The Commission reviewed and considered the DEIR, FEIR, the Addendum, and NOD and finds them adequate for our decision-making purposes.

Finally, Commission staff has discussed additional safety-related reporting requirements to be carried out by the City, which the City has agreed to. These additional requirements are as stated in Ordering Paragraphs 11 through 15.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division – Rail Crossings Engineering Section has inspected the site of the proposed crossing, reviewed

and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject crossings be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3319, dated August 15, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Denise Tyrrell is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on August 5, 2013. There are no unresolved matters or protests. A public hearing is not necessary.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct one new at-grade, pedestrian-across-railroad crossing over the VTA tracks along Tasman Drive to provide access between parking lots and public transit stations and the new 49ers Stadium, in the City of Santa Clara,

County of Santa Clara. The new at-grade pedestrian-across-railroad crossing will be identified as CPUC Crossing No. 082B-6.04-D, SCL-1635.

3. The San Francisco 49ers Stadium Authority provided an Events Management Plan to the Commission's Rail Crossings Engineering Section on April 10, 2014. The Events Management Plan will be reviewed prior to every event by the San Francisco 49ers Stadium Authority, Santa Clara Valley Transportation Authority, and the City of Santa Clara and adjustments made if necessary.

4. The City is the lead agency for this project under CEQA, as amended.

5. The City prepared a DEIR, titled *49er Santa Clara Stadium Project*, dated July 2009, for this project.

6. The City prepared a FEIR, dated November 2009, for this project.

7. The City prepared an Addendum to the FEIR, dated August 2010, for this project.

8. On October 18, 2010, VTA released the NOD related to parking facilities for the stadium.

9. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's DEIR, FEIR, Addendum, and NOD.

10. The project will have a potential significant effect on the environment and mitigation measures are required.

11. Regarding the transportation and circulation impacts, mitigation measures include installing permanent fencing along the light rail track on Tasman Drive, implementing a Transportation Management and Operations Plan, opening the pedestrian crossing only during large stadium events, and consulting with VTA and Commission staff on the design of the proposed pedestrian crossing. The

Addendum found that these impacts are less than significant after mitigation measures.

12. The Commission finds the mitigation measures adopted in the DEIR, FEIR, and Addendum reasonable and feasible.

13. The City adopted a Statement of Overriding Conditions, finding “benefits of the project separately and independently outweigh the significant, adverse impact and is an overriding consideration independently warranting approval.”

14. The DEIR, FEIR, Addendum, and NOD reflect the Commission’s independent judgment and analysis.

Conclusions of Law

1. The DEIR, titled *49ers Santa Clara Stadium Project*, dated July 2009, prepared by the City, the FEIR dated November 2009, the Addendum dated August 2010, and the NOD prepared by the City as the documentation required by CEQA for the project are adequate for our decision-making purposes.

2. The San Francisco 49ers Stadium Authority’s Events Management Plan should be reviewed prior to every event by the San Francisco 49ers Stadium Authority, Santa Clara Valley Transportation Authority, and the City of Santa Clara and adjustments made if necessary.

3. The application is uncontested and a public hearing is not necessary.

4. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Santa Clara is authorized to construct one new at-grade pedestrian-across-light rail crossing consisting of a pedestrian walkway over the Santa Clara Valley Transportation Authority tracks along Tasman Drive for the

49ers Santa Clara Stadium Project in the vicinity of Mile Post No. 6.04 in the City of Santa Clara, County of Santa Clara.

2. The new at-grade pedestrian-across-light rail crossing for the pedestrian walkway over Santa Clara Valley Transportation Authority tracks along Tasman Drive shall be identified as CPUC Crossing No. 082B-6.04-D, SCL-1635.

3. The crossing shall consist of a concrete panel crossing surface, pedestrian signal heads interconnected with the existing light rail signal systems, light rail T-signals, and retractable belt stanchion systems on each approach operated by Santa Clara Valley Transportation Authority, Stadium Security, and Santa Clara Police Department personnel to control pedestrian flow as documented by the application and comply with the design and crossing operations specified in the San Francisco 49ers Stadium Authority's Events Management Plan dated April 10, 2014.

4. The Events Management Plan shall be reviewed prior to every event by the San Francisco 49ers Stadium Authority, Santa Clara Valley Transportation Authority, and the City of Santa Clara and adjustments made, if necessary.

5. Changes to the San Francisco 49ers Stadium Authority's Events Management Plan shall be approved by the Director or Deputy Director of California Public Utilities Commission's Safety and Enforcement Division in writing in advance of any implementation of such changes except that additional safety protections may be provided without prior approval so long as notification is provided to the Director or Deputy Director in writing within 48 hours of the implementation of those additional protections.

6. The crossing shall only be open during large stadium events with a minimum of 20,000 attendees, and only when Tasman Drive is closed to vehicular traffic.

7. Pedestrian flow at the crossing shall be controlled by a minimum of two properly trained Santa Clara Valley Transportation Authority staff members and one Santa Clara Police Department personnel on each approach. Additional Santa Clara Police Department officers and stadium security staff shall be stationed on each approach to aid enforcement.

8. The temporary approach ramps shall be Americans with Disabilities Act compliant.

9. The crossing shall be closed during times when no events are scheduled. The crossing shall be gated and locked with a sliding fence, the approach ramps shall be removed, and the pedestrian signals shall be darkened. The sliding fence material and height shall match the permanent fencing to be installed along the Santa Clara Valley Transportation Authority light rail track.

10. For an interim period not to exceed two years, the City of Santa Clara shall install a combination of temporary and permanent fencing adjacent to the Santa Clara Valley Transportation Authority track along Tasman Drive between Convention Center Circle and Centennial Boulevard/Marie P. DeBartolo Way. The fencing shall be located on both sides of the light rail corridor within the median of Tasman Drive. By the end of the two-year interim period, the fencing shall be permanent the entire length of Tasman Drive between Convention Center Circle and Centennial Boulevard/Marie P. DeBartolo Way.

11. The City of Santa Clara shall comply with all applicable rules, including California Public Utilities Commission General Orders, the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities and the California Manual on Uniform Traffic Control Devices.

12. The City of Santa Clara shall notify the California Public Utilities Commission's Safety Enforcement Division – Rail Crossings Engineering Section when the crossing is constructed and fully functional, so that Commission staff may arrange with the City and Santa Clara Valley Transportation Authority to witness final testing of the crossing system.

13. The City of Santa Clara (applicant) shall conduct a monitoring program documenting pedestrian compliance at the crossing and providing a report to the California Public Utilities Commission's Rail Crossing Engineering Section staff by November 1, 2014. Should the Rail Crossings Engineering Section staff deem the results unsatisfactory, the applicant must work with Rail Crossings Engineering Section staff to implement additional mitigation measures or close the crossing.

14. The City of Santa Clara (applicant) shall conduct a monitoring program documenting pedestrian compliance in the vicinity of the San Tomas Aquino Creek during small events when the pedestrian crossing is not open and providing a report to the California Public Utilities Commission's Rail Crossing Engineering Section staff by November 1, 2014. Should the Rail Crossings Engineering Section staff deem the results unsatisfactory, the applicant must work with Rail Crossings Engineering Section staff to implement additional mitigation measures or immediately install permanent fencing as proposed in the final fencing design.

15. The City of Santa Clara shall provide a final copy of the Transportation Management and Operations Plan to the Commission's Rail Crossings Engineering Section staff prior to opening the crossing.

16. The City of Santa Clara shall notify the California Public Utilities Commission's Safety Enforcement Division – Rail Crossings Engineering Section at least five business days prior to opening of the crossings for public use. Notification must be made to rces@cpuc.ca.gov.

17. Within 30 days after completion of the work under this order, the City of Santa Clara shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Section in writing, by submitting a completed California Public Utilities Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpus.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

18. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

19. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Section at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

20. The application is granted as set forth above.

21. Application 13-08-006 is closed.

This order is effective today.

Dated _____, at San Francisco, California.